

REMARKS

This amendment is response to the Official Action mailed December 15, 2003. A petition for a one-month extension of the shortened statutory period for responding to this Official Action, to and including April 15, 2004, is enclosed herewith.

The Examiner rejected claims 1, 4-10, 13-19, 22-29, 36-41 and 48-51 under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2001/0032187 ("*Nuttall*"). The Examiner also rejected claims 30, 31, 42 and 43 under 35 U.S.C. § 103(a) as being unpatentable over *Nuttall*. In addition, the Examiner rejected claims 2, 3, 11, 12, 20, 21, 32-35 and 44-47 under 35 U.S.C. § 103(a) as being unpatentable over *Nuttall* in view of U.S. Patent No. 6,388,714 ("*Schein*").

Applicant has amended claims 1, 2, 4, 5, 7, 28, 34, 36, 39, 40, 46, 48 and 51, canceled claims 10-27 and added new claims 52-65. Claims 1, 28, 40, 55 and 64 are independent claims. Applicant's amended and new claims clearly distinguish over *Nuttall* and *Schein* whether considered individually or in combination.

*Nuttall* discloses a method for distributing digital works among "nodes" of a communications network. As explained in *Nuttall*, each node "includes at least one computer system" connected to the network and preferably is "addressed by a node address, for example a uniform resource locator (URL), a name from a domain name system (DNS), or an Internet Protocol address (IP)." (*Nuttall*, ¶ 29, lines 4, 14-17.) As further explained in *Nuttall*, a digital work is requested by one of a plurality of content requesting nodes 110 connected to network 100. (*Nuttall*, Figure 1.) The system for responding to such a request includes a plurality of other nodes, namely, content acquisition node 102, content managing node 104, provider preparation node 106, content providing node 108, authorizing node 112, event

reporting node 116, banking node 114 and reconciling node 118. (Nuttall, Figure 1.) Nuttall explains the operation of these nodes as follows:

To request a data transfer in a preferred embodiment for the Internet, a user or consumer at content requesting node 110 uses a network browser, such as Microsoft Internet Explorer, and follows an Internet link (clicks on a portion of an HTML file display), causing a message in HTTP format to be conveyed on line 136 to content providing node 108. Content providing node 108 forwards the request on line 138 to authorizing node 112. If the request is valid, authorizing node 112 creates a permit and sends it on line 146 to content requesting node 110. A permit is a message created to uniquely respond to the request from a particular content requesting node. Using portions of the permit, content requesting node 110 requests on line 136 particular files from content providing node 108. In response, such particular files are conveyed on line 148 to content requesting node 110, completing the data transfer.

(Nuttall, ¶ 34, emphasis added.)

Applicant's invention provides a different approach. In Applicant's invention, authorization data for authorizing the downloading of selected copyrighted works is stored in a memory associated with the receiving facility before the user selects any selected copyrighted work for downloading. The distribution facility, therefore, is not required to forward the receiving facility's request for downloading of a selected copyrighted work to an authorizing node. Also, the receiving facility is not required to wait for an authorizing node to transmit a "permit" to the receiving facility authorizing the downloading. In addition, the receiving facility is not required to then

transmit this "permit" to the distribution facility before the downloading can begin. Applicant's invention avoids all of these additional steps and, therefore, provides a far more effective method for distributing copyrighted works to users. In particular, Applicant's invention promotes impulse-pay-per-view (IPPV) downloading of copyrighted works such as musical pieces.

In Applicant's invention, the receiving facility merely confirms that the authorizing data stored in the receiving facility's associated memory permits the downloading. If so, the downloading occurs, and a purchasing record of the downloading is stored in this memory. This purchasing record periodically is transmitted to the distribution facility for billing the user and performing copyright management. As explained in Applicant's specification:

When a musical piece is selected from the musical-piece list displayed on the TV receiver 4d and the downloading button 28 pressed, the control CPU 58 in the receiving apparatus 4b checks the contract type recorded in the non-volatile memory... in the IC card 65 and determines whether the contract allows an IPPV program (musical piece in this case) to be purchased. When it is determined that the contract does not allow downloading, the control CPU 58 (Fig. 6) disables downloading of the musical piece. Conversely, when it is determined from the checking of the contract type that the contract allows an IPPV program to be purchased, the control CPU 58 determines whether the current total viewing fee (the total purchase fee) reaches the program purchase upper limit recorded in the non-volatile memory. As a result, when the total viewing fee exceeds the program purchase upper limit, the control CPU 58 disables downloading of a musical

piece. The program purchase upper limit is sent from the customer management center 6 through the distribution apparatus 1 as a part of the individual information and is recorded in the non-volatile memory of the IC card 65. When the total viewing fee is less than the program purchase upper limit, the control CPU 58 writes the service ID and the event ID in the received program identification information into the non-volatile memory of the IC card 65 as viewing history data. The control CPU 58 retrieves IPPV fee data from the received program identification information, adds it to the total viewing fee stored in the non-volatile memory, and writes the result into the non-volatile memory as the new total viewing fee. After these operations, the above-described descrambling processing is performed and the specified musical piece is downloaded.

(Specification, page 51, line 22-page 53, line 3.)

Claim 1, as amended, now recites that the "copyright management apparatus" includes, among other elements, a "receiving means associated with the distribution facility for receiving from the receiving facility a purchasing record identifying selected copyrighted works distributed from the distribution facility and selected by the receiving facility for downloading at the receiving facility, said purchasing record being stored in a second memory at the time of said downloading and transmitted to said receiving means after said downloading, said second memory being associated with said receiving facility and also storing, in advance of said selecting of said selected copyrighted works by said receiving facility, authorization data for authorizing the downloading of said selected copyright works." Applicants other independent claims, namely, claims 28, 40, 55 and 64 contain similar limitations. Nuttall, therefore,

neither anticipates nor suggests Applicant's invention as recited in these independent claims.

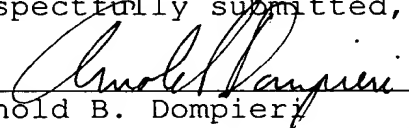
The Examiner also has cited U.S. Patent No. 6,388,714 ("*Schein*"). *Schein*, however, was not cited against any of Applicant's independent claims. *Schein*, moreover, discloses a system "for providing television schedule and/or listing information to a viewer, and for allowing the viewer to link, search, select and interact with information in a remote database, e.g., a database on the internet." (Abstract.) *Schein* discloses no means for storing or managing copyright information. *Schein*, therefore, also does not disclose or suggest the invention of independent claims 1, 28, 40, 55 and 64. Since Applicant's remaining claims depend, either directly or indirectly, upon one of these independent claims, these dependent claims also are patentable over *Nuttall* and *Schein*.

Applicant submits that this amendment and response place this application in condition for allowance. An early notice of allowance of all of the pending claims, namely, claims 1-9 and 28-65, therefore, is respectfully requested. If for any reason the Examiner does not believe that such action can be taken at this time, however, he is respectfully requested to telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections he may have.

If any additional charges are due in connection with this requested amendment, the Examiner is authorized to charge Deposit Account 12-1095 therefor.

Dated: April 2, 2004

Respectfully submitted,

By   
Arnold B. Dompier,  
Registration No.: 29,736  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicant